

Amendment No. 1 to SB1741

McNally
Signature of Sponsor

AMEND Senate Bill No. 1741*

House Bill No. 1947

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, part 2, is amended by adding the following language as a new section:

§ 67-6-235.

(a) For purposes of this section:

(1) "Component member" has the same meaning as set forth in 26 U.S.C. §1563(b), as amended; and

(2) "Controlled group of corporations" has the same meaning as set forth in 26 U.S.C. §1563(a), as amended.

(b) Commencing January 1, 2011, if a retailer located outside this state is part of a controlled group of corporations, and that controlled group has a component member that is a retailer located within this state, then the retailer located outside this state is presumed to be engaged in activities in this state that are sufficient to require such retailer to collect and remit Tennessee sales tax. Such presumption may be rebutted by proof that during the calendar year in question the component member that is a retailer located in this state did not engage in any constitutionally sufficient solicitation in this state on behalf of the retailer located outside this state.

(c) Each retailer that is not constitutionally required to collect Tennessee sales tax pursuant to subsection (b) of this section or any other provision of this chapter and is not otherwise collecting Tennessee sales tax, shall notify Tennessee purchasers that sales or use tax is due on certain purchases made from the retailer and that the state of Tennessee requires the purchaser to file a sales or use tax return.

(d)

(1)

(A) Each retailer that is not constitutionally required to collect Tennessee sales tax pursuant to subsection (b) of this section or any other provision of this chapter and is not otherwise collecting Tennessee sales tax, shall send notification to all Tennessee purchasers by January 31 of each year showing such information as the commissioner may require by rule and the total amount paid by the purchaser for Tennessee purchases made from the retailer in the previous calendar year. Such notification shall include, if available, the dates of purchases, the amounts of each purchase, and the category of the purchase, including, if known by the retailer, whether the purchase is exempt or not exempt from taxation. The notification shall state that the state of Tennessee requires a sales or use tax return to be filed and sales or use tax paid on certain Tennessee purchases made by the purchaser from the retailer.

(B) The notification specified in this subsection shall be sent separately to all Tennessee purchasers by first-class mail and shall not be included with any other shipments. The notification shall include the words "important tax document enclosed" on the exterior of the mailing. The notification shall include the name of the retailer.

(2)

(A) Each retailer that is not constitutionally required to collect Tennessee sales tax pursuant to subsection (b) of this section or any other provision of this chapter and is not otherwise collecting Tennessee sales tax, shall, on or before March 1 of each year, file an annual statement with the commissioner showing the total amount paid during the preceding calendar year by each purchaser located within Tennessee

for goods that were purchased from the retailer and are subject to the tax imposed by this chapter.

(B) The commissioner may require any retailer that makes total sales within this state of more than one hundred thousand dollars (\$100,000) in a year and files the statement described in subdivision (2)(A) to file such statement by magnetic media or another machine-readable form for that year.

(e) It is the intent of the general assembly that the provisions of this section apply to the persons described in this section to the fullest extent permitted by the United States Constitution and the Constitution of Tennessee.

SECTION 2. This act shall take effect July 1, 2010, the public welfare requiring it.